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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 MAHA I.,

9 Plaintiff,

10 v.

11 COMMISSIONER OF SOCIAL SECURITY,

12 Defendant.

CASE NO. C19-205-BAT

**ORDER AFFIRMING THE  
COMMISSIONER AND DISMISSING  
THE CASE**

13 Plaintiff Maha I. seeks review of the denial of her application for Supplemental Security  
14 Income. She contends the ALJ misevaluated the medical opinion evidence, erroneously failed to  
15 find her impairments met or equaled a listing, and erred in evaluating her residual functional  
16 capacity. Dkt. 10. The Court **AFFIRMS** the Commissioner's final decision and **DISMISSES** the  
17 case with prejudice.

18 **BACKGROUND**

19 Plaintiff is currently 49 years old, has one year of college education, and has no past  
20 relevant work. Tr. 44, 56, 174. She applied for benefits in July 2015, alleging disability as of her  
21 application date. Tr. 174. After her application was denied initially and on reconsideration, the  
22 ALJ conducted a hearing and, on February 27, 2018, issued a decision finding plaintiff not  
23

1 disabled. Tr. 15-29. The Appeals Council denied plaintiff's request for review, making the ALJ's  
2 decision the Commissioner's final decision. Tr. 1.

### 3 **THE ALJ'S DECISION**

4 Utilizing the five-step disability evaluation process,<sup>1</sup> the ALJ found that plaintiff had not  
5 engaged in substantial gainful activity since the application date; she had the following severe  
6 impairments: diabetes mellitus, hyperthyroidism, asthma, degenerative disc disease,  
7 osteoarthritis of bilateral knees, hip joint labral tear, obesity, depression, and post-traumatic  
8 stress disorder (PTSD); and these impairments did not meet or equal the requirements of a listed  
9 impairment.<sup>2</sup> The ALJ found that plaintiff had the residual functional capacity to perform light  
10 work with additional physical and mental limitations. Tr. 20-21. The ALJ found that plaintiff has  
11 no past relevant work, but there are jobs that exist in significant numbers in the national  
12 economy that plaintiff can perform. Tr. 28. Accordingly, the ALJ found that plaintiff was not  
13 disabled. Tr. 28-29.

### 14 **DISCUSSION**

#### 15 **A. Medical opinions**

16 Plaintiff argues that the ALJ erred in evaluating the opinions of treating doctor Shawn  
17 Meyers, M.D., examining doctor Kathleen Andersen, M.D., and treating psychiatric provider  
18 Lakew Adnew, DNP-c, PMHNP-BC. Dkt. 10 at 3. In general, the ALJ must give specific and  
19 legitimate reasons for rejecting a treating or examining doctor's opinion that is contradicted by  
20 another doctor, and clear and convincing reasons for rejecting a treating or examining doctor's  
21 uncontradicted opinion. *Lester v. Chater*, 81 F.3d 821, 830-31 (9th Cir. 1996).

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23 <sup>1</sup> 20 C.F.R. § 416.920.

<sup>2</sup> 20 C.F.R. Part 404, Subpart P. Appendix 1.

1           *I.       Dr. Meyers*

2           Dr. Meyers completed a documentation request for medical disability form in February  
3 2017. He identified plaintiff's diagnoses as labral tear of the hip, low back pain, and depression  
4 and indicated that these were supported by testing, lab reports, or other means. Tr. 403. He  
5 opined that plaintiff had pain with standing, walking, laying on her side, lifting, and with sitting  
6 longer than 5 minutes, and she was unable to participate in work activity. *Id.* He opined that  
7 plaintiff was unable to lift at least 2 pounds or unable to stand or walk, and her condition was  
8 permanent. Tr. 404. He recommended continued physical therapy for her hip and back pain and a  
9 referral back to a surgeon for further evaluation. Tr. 404-05.

10          The ALJ found that Dr. Meyers indicated that he based his assessment on plaintiff's pain  
11 complaints for which he recommended physical therapy. Tr. 25. The ALJ noted that on the date  
12 he gave this opinion, Dr. Meyers stated in treatment records that he had completed "disability  
13 paperwork for period of 1 year" and provided a disabled parking pass. Tr. 377. The ALJ gave Dr.  
14 Meyers's opinion little weight, finding that the opinion contained little more than a list of  
15 plaintiff's diagnosed conditions and reported symptoms. Tr. 25. The ALJ found that the opinion  
16 lacked sufficient supporting evidence of clinical findings to support the extreme degree of  
17 severity alleged, and that it was not consistent with treatment records indicating "grossly normal"  
18 objective exams and limited, conservative treatment, including recommendations for physical  
19 therapy. *Id.*

20          Plaintiff argues that the ALJ erred in finding that Dr. Meyers based his opinion on  
21 plaintiff's pain complaints and asserts that he based his opinion on plaintiff's physical and  
22 mental conditions which had been established through objective testing. Dkt. 10 at 4. Dr. Meyers  
23 checked a box to indicate that plaintiff's diagnoses were supported by "testing, lab reports, etc."

1 Tr. 403. But he did not identify what those tests or other objective findings were or connect them  
2 to the functional limitations he opined. Rather, he identified plaintiff's limitations as "pain with"  
3 performing various activities. *Id.* The ALJ's finding that Dr. Meyers based his opinion on  
4 plaintiff's pain complaints rather than objective testing was a rational interpretation of the  
5 evidence that this court may not disturb. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002).

6 Plaintiff argues that the ALJ erred in finding the opinion to be inconsistent with treatment  
7 notes, as the ALJ did not cite to specific treatment notes when evaluating this opinion and the  
8 notes the ALJ identified elsewhere in the opinion do not support this finding. Dkt. 10 at 4.  
9 Significantly, although plaintiff criticizes the notes the ALJ identified, she does not point to any  
10 treatment notes, from Dr. Meyers or any other provider, that are consistent with or support Dr.  
11 Meyers's opinion. Moreover, the ALJ found that Dr. Meyers's opinion was not supported by any  
12 clinical findings that showed the extreme degree of severity alleged, such as neurologic/motor  
13 strength, sensory, or gait deficits. Tr. 25. The lack of supporting evidence was a valid reason to  
14 discount the opinion. *Bayliss v. Barnhart*, 427 F.3d 1211, 1216 (9th Cir. 2005) (ALJ may give  
15 less weight to a doctor's opinion that is brief, conclusory, and inadequately supported by medical  
16 records).

17 Finally, plaintiff argues that the ALJ erred by characterizing her treatment as limited and  
18 conservative, pointing out that Dr. Meyers recommended referral back to a surgeon (which the  
19 ALJ did not mention) in addition to continued physical therapy (which the ALJ did mention),  
20 and that the ALJ failed to explain how conservative treatment was inconsistent with Dr.  
21 Meyers's opinion. Dkt. 10 at 4-5. Although the ALJ did not discuss the surgical referral, she  
22 discussed the recommendation of physical therapy as an example of conservative treatment  
23 ("e.g., recommended physical therapy"), not as the sum total of plaintiff's treatment. Tr. 25. And

1 the ALJ found that the “extreme degree of severity” Dr. Meyers opined was inconsistent with the  
2 nature of plaintiff’s treatment. Tr. 25. Plaintiff disagrees with the ALJ’s interpretation of the  
3 nature of her treatment, but the ALJ could reasonably find that continued physical therapy and a  
4 surgical referral was inconsistent with an opinion that plaintiff could not lift 2 pounds or could  
5 not stand or walk—both extreme limitations. The ALJ did not err in evaluating the nature of  
6 plaintiff’s treatment.

7 The ALJ gave specific and legitimate reasons, supported by substantial evidence, to  
8 discount Dr. Meyers’s opinion. This Court may not disturb that assessment.

9 2. *Dr. Andersen*

10 Dr. Andersen examined plaintiff in February 2016. Dr. Andersen opined that related to  
11 plaintiff’s high levels of ongoing anxiety, intrusive images, impaired concentration, and low  
12 energy, she would likely have marked to severe difficulty concentrating on tasks, persisting at  
13 tasks, and completing tasks in a timely fashion. Tr. 362. Dr. Andersen further opined that related  
14 to plaintiff’s anxiety and emotional lability, she would have marked difficulty interacting  
15 consistently and appropriately in a work setting. *Id.* Dr. Andersen stated that she could not  
16 picture plaintiff successfully finding and maintaining employment and given that she is never by  
17 herself and rarely leaves the home, it would be difficult to picture how she would be able to  
18 attend a job on a consistent basis. Tr. 361-62.

19 The ALJ found that this opinion was based on a snapshot of plaintiff’s functioning during  
20 a one-time evaluation rather than any longitudinal treatment history, and that it relied heavily on  
21 plaintiff’s reports of extreme symptoms, including auditory and visual hallucinations and suicidal  
22 ideation. *Id.* The ALJ also noted that Dr. Andersen expressed doubts that plaintiff had put forth  
23 her best effort on cognitive testing, considering her very poor performance in light of her

1 educational background of one year of college. Tr. 27. The ALJ found that in light of Dr.  
2 Andersen's expressed doubts about plaintiff's effort, her self-reported extreme symptoms and  
3 limitations were also questionable. *Id.* The ALJ therefore gave some weight to Dr. Andersen's  
4 diagnostic assessment and findings of some significant limitations, but gave little weight to the  
5 opinion that plaintiff would be unable to sustain any kind of competitive work activities. *Id.*

6 Plaintiff argues that the ALJ erred in finding that Dr. Andersen relied heavily on  
7 plaintiff's unreliable reports of extreme symptoms, asserting that those symptoms are well  
8 supported in the record, and that Dr. Andersen did not question plaintiff's self-reports, but rather  
9 questioned her performance on cognitive testing, and did not rely heavily on plaintiff's self-  
10 reports in forming her opinion. Dkt. 10 at 7-8. In making this argument, plaintiff relies on the  
11 principle that an ALJ may not reject an examining physician's opinion by questioning the  
12 credibility of the patient's complaints where the doctor does not discredit those complaints and  
13 supports her ultimate opinion with her own observations. *Edlund v. Massanari*, 253 F.3d 1152,  
14 1159 (9th Cir. 2001). But here, Dr. Andersen did question plaintiff's performance during the  
15 examination. Plaintiff attempts to distinguish Dr. Andersen's questioning of plaintiff's  
16 performance on cognitive testing from her self-reported symptoms. But the ALJ could rationally  
17 find that Dr. Andersen's questions about plaintiff's failure to put forth her best effort in cognitive  
18 testing undermined the reliability of plaintiff's presentation throughout the examination. The  
19 court finds that this was a valid reason to discount Dr. Andersen's opinion.

20 Plaintiff also argues that the ALJ's assessment of Dr. Andersen's opinion was vague  
21 because she did not specify which limitations she gave some weight to and that the ALJ failed to  
22 recognize that Dr. Andersen reviewed some treatment records in forming her opinion. Dkt. 10 at  
23 6. The court finds that these arguments, even if they identify errors in the ALJ's evaluation of

1 Dr. Andersen's opinion, do not identify harmful errors in light of the ALJ's valid reason to  
2 discount the opinion. The court may not disturb the ALJ's decision to give little weight to Dr.  
3 Andersen's opinion.

4 3. *Mr. Adnew*

5 Mr. Adnew, plaintiff's treating psychiatric provider, stated in a June 2017 letter that  
6 plaintiff's diagnoses were PTSD, chronic type, and major depressive disorder; he also stated that  
7 she had been diagnosed with thyroid problems that affected her mood. Tr. 392. He reported her  
8 descriptions of symptoms at her visits and opined that due to her chronic PTSD she would face  
9 difficulty in sustaining employment. *Id.* In a mental residual functional capacity assessment form  
10 attached to his letter, he opined that plaintiff had marked to severe impairments in areas of  
11 understanding and memory; sustained concentration, persistence, and pace; and adaptation. Tr.  
12 393-94.

13 A nurse practitioner is not an acceptable medical source who can give medical opinions.  
14 *See* 20 C.F.R. § 404.1513(a). The ALJ may evaluate opinions of other medical sources using the  
15 same factors used to evaluate medical opinions of acceptable medical sources. Social Security  
16 Ruling 06-03p; *see also* 20 C.F.R. § 404.1527(d). The ALJ must give specific, germane reasons  
17 for rejecting opinions from other sources that are not acceptable medical sources. *Dodrill v.*  
18 *Shalala*, 12 F.3d 915, 919 (9th Cir. 1993). But the ALJ may give less weight to opinions of other  
19 medical sources than to those of acceptable medical sources. SSR 06-03p.

20 The ALJ found that this opinion essentially consisted of rating checkboxes without  
21 explanation, and that, other than listing plaintiff's diagnoses and her reported symptoms, Mr.  
22 Adnew provided very little evidence of clinical findings to support the degree of severity he  
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1 opined. Tr. 27. The ALJ also noted that Mr. Adnew was not an acceptable medical source. *Id.*  
2 The ALJ therefore gave the opinion little weight. *Id.*

3 Plaintiff argues that discrediting an opinion simply because it is in checkbox form is not  
4 valid unless the opinion is inconsistent with the underlying clinical records. Dkt.10 at 10. But the  
5 ALJ did not reject this opinion merely because of the check-box format—the ALJ also noted that  
6 Mr. Adnew did not support his opinion with reference to clinical findings that were consistent  
7 with the severe limitations he described. Instead, he referred to plaintiff’s reports of symptoms  
8 and her diagnoses. An ALJ may give less weight to an opinion that is brief, conclusory, and  
9 inadequately supported by medical records. *Bayliss*, 427 F.3d at 1216. The lack of reference to  
10 clinical findings was a germane reason to discount the opinion. Plaintiff asserts that Mr. Adnew’s  
11 treatment notes do in fact support his opinion. Dkt. 10 at 10. But she asks the Court to interpret  
12 those notes in a manner more favorable to her. That the Court cannot do. The conclusory and  
13 unsupported nature of Mr. Adnew’s opinion was a germane reason to give it little weight. The  
14 ALJ did not err in evaluating Mr. Adnew’s opinion.

15 **B. Step two**

16 Plaintiff argues that the ALJ erred by failing to find at step two that her mental  
17 impairments met or equaled a listed impairment. Dkt. 10 at 11. To meet or equal a listing, mental  
18 impairment must result in at least one extreme or two marked limitations in the following  
19 function areas (the “paragraph B criteria”): understanding, remembering, or applying  
20 information; interacting with others; concentrating, persisting, or maintaining pace; or adapting  
21 or managing oneself. *See* 42 U.S.C. § 12.00(A)(2)(b). The ALJ found that plaintiff had moderate  
22 limitations in the first three areas and mild limitations in the fourth. Tr. 19-20.



1 Plaintiff asserts that the ALJ mischaracterized Dr. Andersen's opinion, relied only on the  
2 non-examining doctors, and cherry-picked the testimony to find that plaintiff did not meet the  
3 paragraph B criteria. Dkt. 10 at 11. In making this argument, plaintiff asks the Court to weigh the  
4 evidence in a manner different from the ALJ.

5 For example, with respect to the area of understanding, remembering, and applying  
6 information, the ALJ found that plaintiff performed poorly on cognitive testing with Dr.  
7 Andersen, but was able to recount her immigration history including correct dates, and, as  
8 discussed above, Dr. Andersen questioned plaintiff's effort on the testing. Tr. 19. Plaintiff argues  
9 that the ALJ failed to acknowledge that plaintiff did not know the date or the state she was in and  
10 demonstrated difficulty with memory tasks on the exam. Dkt. 10 at 11. Plaintiff essentially asks  
11 the Court to find that the ALJ should have placed more weight on specific examples of memory  
12 difficulties than on the evidence that demonstrated her ability to remember information. But the  
13 ALJ is entitled to draw reasonable inferences logically flowing from the record. *Tommasetti v.*  
14 *Astrue*, 533 F.3d 1035, 1040 (9th Cir. 2008). And, while the ALJ must "make fairly detailed  
15 findings in support of administrative decisions to permit courts to review those decisions  
16 intelligently," the ALJ "need not discuss all evidence presented." *Vincent v. Heckler*, 739 F.2d  
17 1393, 1394-95 (9th Cir. 1984). The ALJ could reasonably infer from the evidence, which showed  
18 both abilities and difficulties in memory, that plaintiff had moderate difficulties in this area. The  
19 court cannot reweigh the evidence in the manner plaintiff proposes. And the court has already  
20 rejected plaintiff's arguments with respect to the ALJ's finding regarding Dr. Anderson's  
21 concerns about plaintiff's effort on testing. Plaintiff has not established that the ALJ erred in  
22 evaluating this area.

1 Plaintiff makes similar arguments with respect to the other functional areas. But these  
2 arguments again ask the Court to reweigh the evidence or to reject reasonable inferences the ALJ  
3 drew from the record. Plaintiff may disagree with the ALJ's interpretation of the evidence in  
4 evaluating the paragraph B criteria, but the court may not disturb the ALJ's findings for this  
5 reason. The ALJ's step-two findings are supported by substantial evidence and free of legal  
6 error. Accordingly, the Court may not disturb them.

7 **C. Residual functional capacity**

8 Plaintiff argues that based on the errors she alleges in the ALJ's evaluation of Dr.  
9 Meyers's, Dr. Andersen's, and Mr. Adnew's opinions, the ALJ erred in evaluating her residual  
10 functional capacity. Dkt. 10 at 16-17. The court has rejected these arguments above and finds  
11 that they do not establish that the ALJ erred in evaluating plaintiff's residual functional capacity.

12 **CONCLUSION**

13 For the foregoing reasons, the Commissioner's decision is **AFFIRMED** and this case is  
14 **DISMISSED** with prejudice.

15 DATED this 18th day of October, 2019.

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18 BRIAN A. TSUCHIDA  
19 Chief United States Magistrate Judge  
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